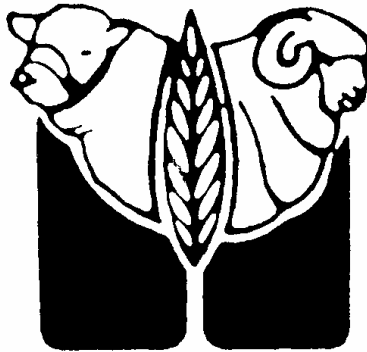


# MINUTES



**SPECIAL MEETING  
HELD**

**TUESDAY, 7 DECEMBER 2010  
COMMENCING AT 7.00PM**

**AT**

**SHIRE OF BOYUP BROOK  
ABEL STREET – BOYUP BROOK**

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**1. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED**

**1.1 Attendance**

Cr T Ginnane – Shire President  
Cr M Giles – Deputy Shire President  
Cr R Downing  
Cr T Ginnane  
Cr E Muncey  
Cr P Marshall  
Cr B O’Hare  
Cr T Oversby

STAFF: Mr Alan Lamb (Chief Executive Officer)  
Mr John Eddy (Manager of Works and Services)

**1.2 Apologies**

Cr T Doust

**1.3 Leave of Absence**

**2. PUBLIC QUESTION TIME**

**2.1 Response to Previous Public Questions Taken on Notice**

Nil

**2.2 Public Question Time**

Nil

**3. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**4. MATTERS REQUIRING A DECISION**

**4.1 2009/10 Annual Report**

The first draft of the annual report was put to the November 2010 meeting of Council where Council resolved as follows:

**COUNCIL DECISION – ITEM 7.2.3**

MOVED: Cr Downing

SECONDED: Cr Biddle

That item 7.2.3 be referred to the Forward Planning Committee meeting for further consideration and recommendation due to the Annual Report being received late.

CARRIED 8/0

Res 231/10

It should be noted that bringing this matter to a special meeting of Council, although it is to be held on the same evening and just prior to the Forward Planning Committee Meeting, is not in accordance with Council's resolution. The rationale behind holding a Special meeting was to allow Council the opportunity to review the draft report, and, if acceptable, to adopt it so that copies could be made available, as is required, prior to the Annual Meeting scheduled for 16 December. Council could choose to not deal with the matter in this way and leave it to the Forward Planning Committee meeting as per the resolution and then hold the Special Meeting after dealing with the matter at Committee level. Alternatively Council could choose to just deal with the matter at Committee level and then leave the Committee to report to the December Council meeting.

As will be seen from the following excerpts from relevant legislation, the annual report is to be made available as soon as practicable after it is adopted by Council. Also that it is to be dealt with at the Annual Electors Meeting. Whilst there appears to be no set timing of the availability of the report in relation to the meeting date it would clearly be preferable to be in a position to give people a copy of the report well before the meeting.

It is also now noted that Council did not set the date for the annual meeting at the November Council meeting. As will be seen from the following excerpts from relevant legislation, the Local Government is to set the day for the annual meeting and the CEO is to convene the meeting giving at least 14 days notice. Advertisements have been placed in local papers and on the notice board, as required, giving notice of the annual meeting to be held 16 December 2010. Whilst logically one should follow the other this is not expressed as far as could be found and so it is suggested that if Council accepts the report and the planned date for the annual meeting at the Special Meeting of Council there will have been no breaches of legislation.

The following section of the Local Government Act deals with annual reports:

### **5.53. Annual reports**

- (1) *The local government is to prepare an annual report for each financial year.*
  - (2) *The annual report is to contain —*
    - (a) *a report from the mayor or president;*
    - (b) *a report from the CEO;*
    - [(c), (d) *deleted.*]
    - (e) *an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year;*
    - (f) *the financial report for the financial year;*
    - (g) *such information as may be prescribed in relation to the payments made to employees;*
    - (h) *the auditor's report for the financial year;*
    - (ha) *a matter on which a report must be made under section 29(2) of the Disability Services Act 1993;*
    - (hb) *details of entries made under section 5.121 during the financial year in the register of complaints, including —*
      - (i) *the number of complaints recorded in the register of complaints;*
      - (ii) *how the recorded complaints were dealt with; and*
      - (iii) *any other details that the regulations may require;*
- and*

(i) *such other information as may be prescribed.*

*[Section 5.53 amended by No. 44 of 1999 s. 28(3); No. 49 of 2004 s. 42(4) and (5); No. 1 of 2007 s. 6.]*

#### **5.54. Acceptance of annual reports**

(1) *Subject to subsection (2), the annual report for a financial year is to be accepted\* by the local government no later than 31 December after that financial year.*

*\* Absolute majority required.*

(2) *If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.*

*[Section 5.54 amended by No. 49 of 2004 s. 49.]*

#### **5.55. Notice of annual reports**

*The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.*

The following section of the Act deals with Electors meetings:

#### **5.27. Electors' general meetings**

- (1) *A general meeting of the electors of a district is to be held once every financial year.*
- (2) *A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.*
- (3) *The matters to be discussed at general electors' meetings are to be those prescribed.*

#### **5.28. Electors' special meetings**

- (1) *A special meeting of the electors of a district is to be held on the request of not less than —*
  - (a) *100 electors or 5% of the number of electors —whichever is the lesser number; or*
  - (b) *1/3 of the number of council members.*
- (2) *The request is to specify the matters to be discussed at the meeting and the form or content of the request is to be in accordance with regulations.*
- (3) *The request is to be sent to the mayor or president.*
- (4) *A special meeting is to be held on a day selected by the mayor or president but not more than 35 days after the day on which he or she received the request.*

#### **5.29. Convening electors' meetings**

- (1) *The CEO is to convene an electors' meeting by giving —*
  - (a) *at least 14 days' local public notice; and*
  - (b) *each council member at least 14 days' notice,**of the date, time, place and purpose of the meeting.*
- (2) *The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c) until the meeting has been held.*

#### **5.30. Who presides at electors' meetings**

- (1) *The mayor or president is to preside at electors' meetings.*
- (2) *If the circumstances mentioned in section 5.34(a) or (b) apply the deputy mayor or deputy president may preside at an electors' meeting in accordance with that section.*
- (3) *If the circumstances mentioned in section 5.34(a) or (b) apply and —*
  - (a) *the office of deputy mayor or deputy president is vacant; or*
  - (b) *the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president,*

*then the electors present are to choose one of the councillors present to preside at the meeting but if there is no councillor present, able and willing to preside, then the electors present are to choose one of themselves to preside.*

### **5.31. Procedure for electors' meetings**

*The procedure to be followed at, and in respect of, electors' meetings and the methods of voting at electors' meetings are to be in accordance with regulations.*

### **5.32. Minutes of electors' meetings**

*The CEO is to —*

- (a) *cause minutes of the proceedings at an electors' meeting to be kept and preserved; and*
- (b) *ensure that copies of the minutes are made available for inspection by members of the public before the council meeting at which decisions made at the electors' meeting are first considered.*

### **5.33. Decisions made at electors' meetings**

- (1) *All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable —*
  - (a) *at the first ordinary council meeting after that meeting; or*
  - (b) *at a special meeting called for that purpose,**whichever happens first.*
- (2) *If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.*

The following section of the Local Government (Administration) Regulations deals with matters to be discussed at the annual meeting:

## **15. Matters for discussion at general electors' meetings — s. 5.27(3)**

*For the purposes of section 5.27(3), the matters to be discussed at a general electors' meeting are, firstly, the contents of the annual report for the previous financial year and then any other general business.*

The following Regulation from the Local Government (Administration) Regulations deals with rescinding or changing a Council resolution:

## **10. Revoking or changing decisions made at council or committee meetings — s. 5.25(1)(e)**

- (1) *If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported —*

- (a) *in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or*
- (b) *in any other case, by at least  $\frac{1}{3}$  of the number of offices (whether vacant or not) of members of the council or committee,*

*inclusive of the mover.*

- (1a) *Notice of a motion to revoke or change a decision referred to in subregulation (1) is to be signed by members of the council or committee numbering at least  $\frac{1}{3}$  of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.*
- (2) *If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made —*
  - (a) *in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or*
  - (b) *in any other case, by an absolute majority.*
- (3) *This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.*

It could be argued that the effect of the change suggested in the recommendation is such that it would not be substantially different, but it is suggested that it may be better for the amendment to be supported by three Councillors as provided for above.

Attached is a copy of the report that went to the November Council meeting.

#### **RECOMMENDATION**

It is recommended that Council deal with this matter at this special meeting. In order to enable this to occur Council would first need to amend the motion from its November meeting that referred the matter to the committee. Alternatively, Council could wait until the committee has dealt with the matter (on the same evening) then commence the special Council meeting. The amendment to the November meeting motion will need to be supported by three Councillors. It may be better to deal with item 1 separately and then item 2 and 3 together.

#### **OFFICER RECOMMENDATION – ITEM 4.1**

1. **That Council amend resolution 231/10 of November 2010 by deleting the words “the Forward Planning Committee meeting for further consideration and recommendation” and being replaced by the words “a Special Council meeting” so that the motion then reads “That item 7.2.3 be referred to a Special Council meeting due to the Annual Report being received late.**
2. **That Council accepts the Annual Report as presented for the 2009/10 financial year.**
3. **That the Annual meeting of Electors for the year 2009/10 be held in the Council Chambers on Thursday 16th December 2010 at 6.00pm**

#### **COUNCIL MOVED INTO COMMITTEE**

**MOVED: Cr Marshall**

**SECONDED: Cr Oversby**

**That the Council move into a committee of the whole under clause 15.6 of the Standing Orders, Local Law No.1 to allow members free discussion on the matter.**

**CARRIED 8/0**

**Res 278/10**

**COUNCIL MOVED OUT OF COMMITTEE**

**MOVED: Cr Marshall**

**SECONDED: Cr O'Hare**

**That the Council moves out of committee of the whole under clause 15.6 of the Standing Orders, Local Law No.1.**

**CARRIED 8/0**

**Res 279/10**

**COUNCIL COMMENT**

It was noted that there was a typographical error in the 2008/2013 Strategic Plan's Executive Summary that was included in the Annual Report. The Chief Executive Officer amended the draft Annual Report at the meeting and prior to the vote to correct this. The change was to delete "ten year" and replace it with "five year" in the third line under the heading "Executive Summary" on page 16.

It was noted that the report was, in parts, perhaps confusing and difficult to read and so it was suggested that future Reports include a glossary of terms. Also that a more user friendly summary report be prepared in future years to give electors an alternative to the full Report that met statutory requirements.

**RESOLUTION**

**MOVED: O'Hare**

**SECONDED: Cr Marshall and Cr Biddle**

**That Council amend resolution 231/10 of November 2010 by deleting the words "the Forward Planning Committee meeting for further consideration and recommendation" and being replaced by the words "a Special Council meeting" so that the motion then reads "That item 7.2.3 be referred to a Special Council meeting due to the Annual Report being received late.**

**CARRIED 7/1**

**Res 280/10**

**MOVED: Cr Oversby**

**SECONDED: Cr Downing**

**That Council accepts the Annual Report as presented for the 2009/10 financial year.**

**CARRIED 7/1**

**Res 281/10**

**MOVED: Cr Giles**

**SECONDED: Cr Marshall**

**That the Annual meeting of Electors for the year 2009/10 be held in the Council Chambers on Thursday 16th December 2010 at 6.00pm**

**CARRIED 8/0**

**Res 282/10**

**NOTE**

Resolution 280/10 changed a previous decision of Council and so required the support of one third of the number of offices, in this case three, and so the motion was moved by one Councillor and seconded by two Councillors.

Councillor Biddle did not request that his name be recorded as voting against resolution 281/10 at the meeting but he did so after the meeting. As the request was



not made at the meeting it is not possible to record him as voting against the motion within the record of the decision and so it is included here as part of an explanatory foot note.

**5. CLOSURE OF MEETING**

There being no further business the Shire President, Cr Ginnane, declared the meeting closed at 7.30pm